

Appl. No. 09/782,151  
Amdt. dated April 22, 2004  
Reply to Office Action of February 23, 2004

### Remarks

The present amendment responds to the final Official Action dated February 23, 2004.

The Official Action stated that the attempt to incorporate the copending application "Operating Software Performance Monitor" was improper because the previous amendment to the specification did not provide the correct title of the copending application. The Official Action rejected claims 1-4, 6-12 and 14-20 under 35 U.S.C. 103(a) as unpatentable over Bishop U.S. Patent No. 6,049,798 ("Bishop") in view of Barritz U.S. Patent No. 5,590,056 ("Barritz"). The Official Action rejected claims 5 and 13 under 35 U.S.C. 103(a) as unpatentable over Bishop in view of Barritz and further in view of Yamagishi U.S. Patent No. 5,870,604 ("Yamagishi"). These grounds of rejection are addressed below after a brief description of the present invention to provide context.

The specification has been amended. Claims 1, 15 and 18 have been amended to be more clear and distinct. Claims 1-20 are presently pending.

### The Present Invention

In one aspect, the present invention provides systems and techniques for recording information relating to operating software events as they occur. Various programs and tasks are controlled by the operating system, and performance, scheduling and other information relating to the programs and tasks may be recorded. The information may be maintained in a ledger where it is available for analysis in order to evaluate system performance. This analysis may be performed automatically or by a user, and the results of the analysis can be used to identify parameter changes that can be made in order to improve system performance.

Appl. No. 09/782,151  
Amdt. dated April 22, 2004  
Reply to Office Action of February 23, 2004

### Incorporation of Subject Matter by Reference

The Official Action noted that the attempt to incorporate a copending application was improper because the title of the copending application was incorrectly stated. With the present amendment to the specification, the incorporation of the copending application is now proper and should be allowed.

### The Art Rejections

The art rejection hinges on the application of Bishop, Barritz and Yamagishi, standing in combination of Bishop and Barritz or Bishop, Barritz and Yamagishi. As addressed in greater detail below, Bishop, Barritz and Yamagishi do not support the Official Action's reading of them and the rejections based thereupon should be reconsidered and withdrawn. Further, the Applicant does not acquiesce in the analysis of Bishop, Barritz and Yamagishi made by the Official Action and respectfully traverses the Official Action's analysis underlying its rejections.

The Official Action rejected claims 1-4, 6-12 and 14-20 under 35 U.S.C. 103(a) as unpatentable over Bishop in view of Barritz. In light of the present amendments to claims 1, 15 and 18, this ground of rejection is respectfully traversed.

Claim 1, as amended, claims the operating software scheduling information capture software being operative to record a history of operating software events as they occur, information related to the history being organized and stored as operating software program scheduling information relating to interactions between the operating system software and each of the programs and tasks managed by the operating system software, the scheduling information

Appl. No. 09/782,151  
Amdt. dated April 22, 2004  
Reply to Office Action of February 23, 2004

including relative priorities of programs and tasks, transfers of control from lower priority to higher priority tasks and tasks waiting for execution at the occurrence of each operating software event. These features are not taught by Bishop.

Bishop teaches systems and techniques for monitoring of resources in a data processing system. Bishop monitors the overall level of resource usage, for example CPU and RAM usage, without concentrating on which individual tasks are using which resource. Bishop monitors peripheral device usage by receiving information from device drivers. The device drivers sometimes provide information about the process using the device, but the information provided by device drivers, and the other resource usage information provided by Bishop, does not include a history of operating software events with information relating to the history being organized and stored as operating software program scheduling information relating to interactions between the operating system software and each of the programs and tasks managed by the operating system software, as is claimed by claim 1, as amended.

The operating software program scheduling information, as claimed by claim 1, as amended, provides a more elaborate picture of the interaction between the operating system and the various software components being managed by the operating system than does Bishop. Adding Barritz to Bishop does not cure Bishop's deficiencies as a reference with respect to claim 1, as amended. Claim 1 claims that a history of operating system of events organized and stored as scheduling information includes indications of relative priorities of programs and tasks, transfers of control from lower priority to higher priority tasks and tasks waiting for execution at the occurrence of each operating software event. Neither Bishop, Barritz nor a combination of Bishop and Barritz teaches these features. Bishop does not employ indications of relative

Appl. No. 09/782,151  
Amdt. dated April 22, 2004  
Reply to Office Action of February 23, 2004

priorities of programs and tasks. In order to track processor capacity that is not used by normally operating processes, Bishop begins a new process that is given a lower priority than any executing process on the system. Bishop notes the time employed by this lowest priority process in order to determine time that is not used by any of the normal processes on the system. The lowest priority process can only run when none of the normal processes are running, so the run time of the lowest priority process can be tracked and used to determine the normal idle time for the system, that is, the time when none of the normal processes on the system need to run. Bishop uses this lowest priority process to determine the overall system usage, and does not track the relative priorities of different processes.

Adding Barritz to Bishop does not cure Bishop's deficiencies as a reference with respect to claim 1, as amended. Barritz teaches the collection of frequency of usage information for various software modules that may be hosted on a computer system. Barritz identifies a module when that module is invoked, identifying the particular software version represented by the module and matching module usage with licensing information in order to detect usage of unlicensed software. Barritz helps to identify underused and obsolete software modules in order to allow decisions to remove the underused and obsolete modules in order to save storage resources, and helps to identify unlicensed usage in order to assist in complying with licensing requirements. The information collected by Barritz does not include information relating to relative priorities of programs and tasks, transfers of control from lower priority to higher priority tasks and tasks waiting for execution at the occurrence of each operating software event. This information, collected by the present invention as claimed by claim 1, as amended, provides insight into the ongoing operation of a system and the allocation and management of resources to

Appl. No. 09/782,151  
Amdt. dated April 22, 2004  
Reply to Office Action of February 23, 2004

accomplish the various tasks performed by the system. Claim 1, as amended, therefore defines over the cited art and should be allowed.

Claim 15, as amended, claims invoking operating software scheduling information capture software, the operating software scheduling information capture software being operative to record a history of operating software events as they occur, the history being organized and stored as operating software program scheduling information relating to interactions between the operating system software and each of the programs and tasks managed by the operating system software, the scheduling information including indications of relative priorities of programs and tasks, transfers of control from lower priority to higher priority tasks and tasks waiting for execution at the occurrence of each operating software event. For the reasons stated above with respect to claim 1, neither Bishop, Barritz, nor a combination thereof teaches these limitations. Claim 15, as amended, therefore defines over the cited art and should be allowed.

Claim 18, as amended, claims a memory coupled to a processor, the memory having stored therein sequences of instructions which, when executed by the processor, cause the processor to invoke operating software scheduling information capture software, the operating software scheduling information capture software being operative to record a history of operating software events as they occur, the history being organized and stored as operating software program scheduling information relating to interactions between the operating system software and each of the programs and tasks managed by the operating system software, the scheduling information including indications of relative priorities of programs and tasks, transfers of control from lower priority to higher priority tasks and tasks waiting for execution at the occurrence of each operating software event. For the reasons stated above with respect to claim 1, neither

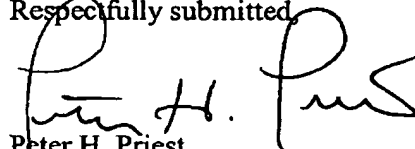
Appl. No. 09/782,151  
Amdt. dated April 22, 2004  
Reply to Office Action of February 23, 2004

Bishop, Barritz, nor a combination thereof teaches these limitations. Claim 18, as amended, therefore defines over the cited art and should be allowed.

Conclusion

All of the presently pending claims, as amended, appearing to define over the applied references, withdrawal of the present rejection and prompt allowance are requested.

Respectfully submitted,



Peter H. Priest  
Reg. No. 30,210  
Priest and Goldstein, PLLC  
5015 Southpark Drive, Suite 230  
Durham, NC 27713-7736  
(919)806-1600